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September 21, 2021

The Honorable Ann M. Donnelly
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: United States v. Robert Kelly
Criminal Docket No.: 19-286 (AMD)

Dear Judge Donnelly:

The defense respectfully submits this letter to request that the Court add additional language to the jury instructions regarding direct and circumstantial evidence. Specifically, the defense requests that the Court add language regarding inferences and that speculation is not allowed. The defense submits that the additional language is necessary based upon certain arguments the Government made regarding Aaliyah and another witness' use of her grandfather's cell phone. The defense objected to the Government stating that Mr. Kelly sought to marry Aaliyah because he wanted to cover up the fact that she was pregnant and then wanted to have control over her to force her to have an abortion. No one at this trial testified in a manner to support that conclusion. There were other instances including a witness' use of her grandfather's cell phone for which the inference the Government suggested was extreme. For those reasons, the defense respectfully requests that the Court submit additional language concerning direct and circumstantial evidence and the inferences that can properly be drawn from each type of evidence. The defense respectfully submits a portion of the jury charge given by the Honorable Paul A. Engelmayer in *United States v. Mack*, et al. 18 Cr. 834 (PAE).

Respectfully submitted,

/s/

Calvin H. Scholar

CHS/jb

cc: All Counsel, by E-MAIL